



Federal Communications Commission
Washington, D.C. 20554

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DA 07-2324

BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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RE: WT Docket 07-10, Request for Waiver of the Analog Service Requirement

Dear Mr. Evans:

For the reasons stated below, we hereby grant Corr Wireless Communications, LLC (Corr) a conditional waiver of Section 22.901(b) of the Commission's Rules,¹ which requires cellular radiotelephone service licensees to provide analog service to subscribers and roamers whose mobile equipment conforms to the Advanced Mobile Phone Service (AMPS) standard (the "analog service requirement") until February 18, 2008 (the "analog sunset date").²

Background. The Commission adopted the analog service requirement in 1981 to foster nationwide roaming and the widespread availability of affordable consumer handsets.³ In 2002, the Commission determined that it was unnecessary to continue the analog service requirement indefinitely, because it had substantially achieved the Commission's goals.⁴ The Commission also found that immediate elimination of the requirement could harm specific classes of consumers, "particularly those with hearing disabilities as well as emergency-only consumers, who currently continue to rely on the availability of analog service and lack digital alternatives."⁵ The Commission determined that the analog service requirement should be phased-out gradually over a five-year period, which commenced on the effective date of the *Analog Sunset Order* (i.e., February 18, 2003).⁶ The Commission reasoned that such a transition period was necessary because digital technologies had been shown to cause interference with hearing aids and cochlear implants, and found that a five-year period should enable the development and wide-spread distribution of hearing aid-compatible digital phones.⁷ The Commission also noted that a

¹ 47 C.F.R. § 22.901(b).

² See Year 2000 Biennial Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services, WT Docket No. 01-108, *Report and Order*, 17 FCC Rcd 18401, 18405 ¶5 (2002) (*Analog Sunset Order*), *Order on Reconsideration*, 19 FCC Rcd 3239 (2004).

³ See Inquiry into the Use of the Bands 825-845 and 870-890 for Cellular Communications Systems, CC Docket No. 79-318, *Report and Order*, 86 FCC 2d 469, 508 ¶93 (1981).

⁴ See *Analog Sunset Order*, 17 FCC Rcd at 18406 ¶8, and 18409-18412 ¶¶13-17.

⁵ *Id.*

⁶ *Id.*, and *id.* at 18414-18419 ¶¶22-30.

⁷ *Analog Sunset Order*, 17 FCC Rcd at 18418 ¶28.

transition period would “mitigate possible negative effects to emergency-only consumers that might otherwise occur with an immediate elimination of the analog requirement.”⁸

Waiver Request. Corr filed its Waiver Request on January 31, 2006, and supplemented the request on September 18, 2006.⁹ On January 22, 2007, the Wireless Telecommunications Bureau released a Public Notice inviting interested parties to comment on the Waiver Request.¹⁰ Comments and reply comments were due February 12 and 22, 2007, respectively. No party, other than Corr, filed comments, and no party filed reply comments.

Corr provides cellular service in the northern Alabama area, under call sign KNKN904, to approximately 30,000 subscribers.¹¹ Corr states that since initiating construction of a digital GSM network in 2003, it has actively transitioned numerous subscribers from its analog/TDMA network to the GSM network.¹² Corr states that as of February 2007, fewer than 30 analog-only subscribers remained on its network.¹³ Corr indicates that analog call volume constituted less than 0.06 percent of total network call volume in January 2006 and less than 0.0001 percent in September 2006.¹⁴ Corr also notes that to accommodate the few remaining analog-only subscribers, it must dedicate spectrum that could be more efficiently used to provide digital services,¹⁵ and that it must devote antenna facilities that could be used to enhance its digital service.¹⁶

Corr argues that continued application of the analog service requirement to Corr is unduly burdensome given Corr’s few remaining analog-only subscribers, and that requiring it to devote spectrum to accommodate the limited analog call volume on its network is contrary to the Commission’s spectrum efficiency goals.¹⁷ Corr also argues that requiring it to continue to provide analog service is not necessary to serve the underlying purpose of the analog service rule. Corr states that it offers at least two hearing-aid compatible digital GSM handsets.¹⁸ Corr proposes to address the needs of its subscribers with hearing disabilities by providing a free hearing-aid compatible digital phone to any existing analog subscriber with hearing disabilities.¹⁹ Corr also states that it will provide any remaining analog-only “subscribers a

⁸ *Id.* at 18415 ¶24.

⁹ Request of Corr Wireless Communications, LLC for Waiver of Section 22.901(b) of the Commission’s Rules (filed Jan. 31, 2006) (“Waiver Request”), Supplement to Request for Waiver (filed Sept. 18, 2006) (“Supplement”).

¹⁰ See “Wireless Telecommunications Bureau Seeks Comment on Request for Waiver of the Analog Service Requirement,” WT Docket No. 07-10, *Public Notice*, 22 FCC Rcd 634 (WTB 2007).

¹¹ Comments of Corr Wireless Communications, LLC (filed Feb. 12, 2007) at 2 (“Comments”).

¹² Waiver Request at 2. See also <http://www.corrwireless.com/default.aspx?id=65>.

¹³ Comments at 2.

¹⁴ Waiver Request at 6; Supplement at 1.

¹⁵ Supplement at 1.

¹⁶ Comments at 1-2.

¹⁷ Request at 6-7. Corr also argues that the substantial costs of operating and maintaining two systems warrant relief. Request at 7-8; Supplement at 1-2. Cost considerations alone, however, are an insufficient basis to support a waiver of the analog service requirement. See *Petition of ACS Wireless, Inc. for Limited Waiver of Analog Service Rule*, Order, 21 FCC Rcd 14594 ¶8 (WTB 2006).

¹⁸ See Waiver Request at 4, citing 47 C.F.R. § 20.19.

¹⁹ Waiver Request at 4.

free digital replacement phone if they transition to the GSM network.”²⁰ Finally, Corr notes that the number of unsubscribed emergency-only handset users should be negligible as digital phones have replaced “analog phones in the pool of donated cell phones.”²¹

Discussion. A waiver of the Commission's rules may be granted if it is shown that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or, in view of the unique or unusual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest or the applicant has no reasonable alternative.²²

Based upon the unique circumstances presented by Corr, we find that a conditional waiver permitting Corr to discontinue analog service is warranted. We agree with Corr that to require it to continue to provide analog service would be unduly burdensome in light of the few analog-only subscribers remaining on its network. Moreover, Corr's willingness to provide persons with hearing disabilities and all remaining analog-only subscribers free digital handsets addresses the Commission's underlying rationale for adopting the analog sunset period.

In view of the foregoing, we hereby grant Corr's Waiver Request, subject to the following conditions, which must be satisfied before Corr discontinues analog service:

- Corr must identify all analog-only subscribers, and offer them GSM handsets, free of charge, and on service terms no less favorable than they currently receive for one year.
- Corr must offer a hearing aid-compatible GSM handset, free of charge, to each analog-only subscriber with hearing disabilities,²³ and on service terms no less favorable than they currently receive for one year.
- At least 30 days before discontinuing analog service, Corr must advise all subscribers and the general public in its service area that analog service will be discontinued. Corr may satisfy this condition by, for example, direct mailings, billing inserts, and newspaper notices.
- At least 30 days before discontinuing analog service, Corr must either certify that the discontinuance of AMPS service will not result in any loss of wireless coverage throughout its Cellular Geographic Service Area (CGSA),²⁴ or file revised CGSA information pursuant to Section 22.911.²⁵

²⁰ Comments at 2.

²¹ *Id.* at 5.

²² See 47 C.F.R. § 1.925(b)(3)(i)-(ii).

²³ As part of this condition, Corr must reasonably allow affected individuals to test Corr's hearing aid-compliant GSM phones for compatibility with their hearing aids.

²⁴ The certification must be signed by a licensee principal and sent to the Chief, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W. Washington, DC 20554.

²⁵ 47 C.F.R. § 22.911.

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Accordingly, IT IS ORDERED that, pursuant to Sections 0.131, 0.331, 1.925(b)(3) and 22.901(b) of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, 1.925(b)(3) and 22.901(b), the Request of Corr Wireless Communications, LLC for Waiver of Section 22.901(b) of the Commission's Rules, filed January 31, 2006, IS GRANTED, subject to the conditions enumerated above.

FEDERAL COMMUNICATIONS COMMISSION

Roger Noel
Chief, Mobility Division
Wireless Telecommunications Bureau